

CAROLEE G. KILDUFF, ESQ., SB No. 107232

ckilduff@akk-law.com

WILLIAM J. BITTNER, ESQ., SB No. 286902

wbittner@akk-law.com

ANGELO, KILDAY & KILDUFF, LLP

Attorneys at Law

601 University Avenue, Suite 150

Sacramento, CA 95825

Telephone: (916) 564-6100

Telecopier: (916) 564-6263

Attorneys for Defendant CITY OF OROVILLE

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL SEARS,

Plaintiff,

vs.

CITY OF OROVILLE and DOES 1 through
50,

Defendants.

) Case No.: 2:22-cc-01624-KJM-KJN

) **STIPULATION TO DISMISS CLAIMS**
) **ONE AND FOUR FROM THE FIRST**
) **AMENDED COMPLAINT, EXTEND**
) **DEFENDANT'S DEADLINE TO**
) **ANSWER, AND CONTINUE THE**
) **STATUS CONFERENCE, ORDER**

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1 On May 3, 2023, Plaintiff filed the operative First Amended Complaint (“FAC”). (ECF
2 No. 22.) The FAC contains five causes of action. (See *id.*) Defendant intended to file a motion
3 to dismiss the FAC pursuant to Federal Rules of Civil Procedure rule 12(b)(6). Pursuant to this
4 court’s standing order, the parties met and conferred to discuss thoroughly the substance of the
5 contemplated motion to dismiss and potential resolution. (ECF No. 3-1.) The parties worked
6 diligently, meeting multiple times to share authority and evaluate their respective positions, and
7 stipulated to extend the due date for the Defendant’s responsive pleading until June 14, 2023 in
8 order to accommodate continued progresses towards resolution. (See ECF Nos. 23 and 24.) As a
9 result of these discussions, the parties have come to an agreement that will alleviate the need for a
10 motion to dismiss and allow the parties to finalize the pleadings.

11 Additionally, the parties note the issues at the heart of the meet and confer efforts so
12 pervaded the case as to render impracticable any meaningful discussion of scheduling prior to their
13 resolution. As such, the parties have been unable to complete the Rule 26(f) conference and
14 preparation of a Joint Status Report, including discovery plan and initial disclosure dates, but have
15 made significant progress towards narrowing the issues in the case.

16 Accordingly, the parties hereby agree to stipulate that:

17 (1) Plaintiff MICHAEL SEARS dismisses the first (“Violation of Civil Rights”) and
18 fourth (“Breach of Contract Pursuant to the Written Agreement Contained Within The
19 Defendant’s Employee Handbook and The Memorandum of Understanding”) causes
20 of action in the FAC.

21 (2) Defendant CITY OF OROVILLE will file an Answer to the FAC based on the
22 remaining second (“FEHA Retaliation”), third (“Racial Discrimination”), and fifth
23 (“Violation of Labor Code § 1102.5”) causes of action.

24 (3) Defendant CITY OF OROVILLE will file its Answer by June 28, 2023.

25 (4) The parties request the Status (Pretrial Scheduling) Conference currently set for June
26 29, 2023. (ECF No. 21) be continued at least thirty (30) days, which interval would
27 give counsel the time and ability to ascertain the work required to resolve the disputed
28

1 facts and any further legal issues, and file a Joint Status Report based on the finalized
2 pleadings.

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4 Dated:

ANGELO, KILDAY & KILDUFF, LLP

5 */s/ William J. Bittner*

6 By: _____

CAROLEE G. KILDUFF

7 WILLIAM J. BITTNER

8 Attorneys for Defendant CITY OF
OROVILLE

9 Dated:

PAI LAW FIRM

10 */s/ Anil Pai*

11 *(As Authorized on 06.14.23)*

12 By: _____

13 ANIL PAI

14 Attorney for Plaintiff MICHAEL SEARS
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ORDER

IT IS HEREBY ORDERED that:


(1) Plaintiff MICHAEL SEARS' first ("Violation of Civil Rights") and fourth ("Breach of Contract Pursuant to the Written Agreement Contained Within The Defendant's Employee Handbook and The Memorandum of Understanding") causes of action are DISMISSED.

(2) Defendant CITY OF OROVILLE shall file an Answer to the FAC based on the remaining second ("FEHA Retaliation"), third ("Racial Discrimination"), and fifth ("Violation of Labor Code § 1102.5") causes of action by June 28, 2023.

(3) Good cause appearing, the Status (Pretrial Scheduling) currently set for June 29, 2023. (ECF No. 21) is reset to August 10, 2023 at 2:30 PM. A Joint Status Report must be filed on behalf of the parties on or before July 27, 2023.

IT IS SO ORDERED.

Dated: June 16, 2023.


CHIEF UNITED STATES DISTRICT JUDGE